

2017

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**Magistrates Court (Waste Management and Resource Recovery Infringement
Notices) Regulation 2017**

Subordinate Law No SL2017-37

made under the **Magistrates Court Act 1930**

EXPLANATORY STATEMENT

Circulated by the authority of
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Attorney-General

Magistrates Court (Waste Management and Resource Recovery Infringement Notices) Regulation 2017

Outline

Part 3.8 of the *Magistrates Court Act 1930* provides for the issuing of infringement notices for offences listed in regulation. The *Magistrates Court (Waste Management and Resource Recovery Infringement Notices) Regulation 2017* creates a system of infringement notices for certain offences against the *Waste Management and Resource Recovery Act 2016* and the *Waste Management and Resource Recovery Regulation 2017*.

The *Waste Management and Resource Recovery Act 2016* and the *Waste Management and Resource Recovery Regulation 2017* provide for responsible practices in waste management and resource recovery and related matters.

The infringement notice scheme is intended to provide an alternative to prosecution where it is deemed that an infringement notice imposing a nominal monetary fine is a more efficient and appropriate course of action than prosecution in a court of law.

Under the *Magistrates Court Act 1930*, a person authorised to issue an infringement notice for an offence has the discretion to decide whether or not to issue an infringement notice and will be guided by the compliance policy in place at that time.

Public servants appointed as authorised people under the *Waste Management and Resource Recovery Act 2016* are authorised to issue infringement notices and reminder notices.

Summary of clauses

Clause 1 - Name of regulation – provides that the regulation is the *Magistrates Court (Waste Management and Resource Recovery Infringement Notices) Regulation 2017*.

Clause 2 - Commencement – provides that the regulation commences on the day after its notification day.

Clause 3 – Dictionary – provides that the dictionary at the end of the regulation is part of the regulation.

Clause 4 – Notes – sets out the role and status of notes in the regulation.

Clause 5 – Purpose of regulation - the purpose of the regulation is to provide for infringement notices under part 3.8 of the *Magistrates Court Act 1930* for certain offences against the *Waste Management and Resource Recovery Act 2016* and the *Waste Management and Resource Recovery Regulation 2017*.

Clause 6 - Administering authority – provides that the administering authority for an infringement notice offence against the *Waste Management and Resource Recovery Act 2016* and the *Waste Management and Resource Recovery Regulation 2017* is the waste manager.

Clause 7 - Infringement notice offences - Part 3.8 of the *Magistrates Court Act 1930* applies to an offence against a provision of the *Waste Management and Resource Recovery Act 2016* and the *Waste Management and Resource Recovery Regulation 2017* mentioned in schedule 1, column 2.

Clause 8 - Infringement notice penalties - the penalty payable by an individual for an offence against the *Waste Management and Resource Recovery Act 2016* and the *Waste Management and Resource Recovery Regulation 2017* is the amount mentioned in schedule 1, column 4 for the offence. The penalty payable by a company is 5 times the amount payable by an individual for the same offence, in accordance with ACT Government policy.

Clause 9 – Contents of infringement notices – identifying authorised person - an infringement notice served on a person by an authorised person for an infringement notice offence against the *Waste Management and Resource Recovery Act 2016* and the *Waste Management and Resource Recovery Regulation 2017* must identify the authorised person by the authorised person's full name, or surname and initials or any unique number given to the authorised person by the administering authority for this regulation.

Clause 10 – Contents of infringement notices – other information - an infringement notice served on a company for an infringement notice offence must include the company's ACN.

Clause 11 – Contents of reminder notices - identifying authorised person - a reminder notice served on a person by an authorised person for an infringement notice offence against the *Waste Management and Resource Recovery Act 2016* and the *Waste Management and Resource Recovery Regulation 2017* must identify the authorised person by the authorised person's full name, or surname and initials or any unique number given to the authorised person by the administering authority for this regulation.

Clause 12 - Authorised people for infringement notice offences - an authorised person appointed under section 74 of the *Waste Management and Resource Recovery Act 2016* may serve an infringement notice and a reminder notice for an infringement notice for an offence against the *Waste Management and Resource Recovery Act 2016* and the *Waste Management and Resource Recovery Regulation 2017*.

Schedule 1 - Waste legislation infringement notice offences and penalties

Schedule 1 outlines the offence penalty and infringement penalties for offences under the *Waste Management and Resource Recovery Act 2016* and the *Waste Management and Resource Recovery Regulation 2017*.

The offences that are being dealt with by way of infringement notices under the regulation are relatively minor in nature and have infringement notice penalties ranging from \$30 to \$1,500 for individuals (\$150 to \$7,500 for companies).

These penalty values have been set in accordance with ACT Government policy so that the nominal amount on an infringement notice is no greater than 20% of the maximum penalty for the offence.

The offences are all strict liability and breaches should be readily apparent without the need for further inquiry, or the need to consider such fault elements as intention or knowledge or weigh up competing or contradictory evidence.